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II

110TH CONGRESS
1ST SESSION

S. 1947

To amend title XI of the Social Security Act to improve the quality improvement organization (QIO) program.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2007

Mr. GRASSLEY (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XI of the Social Security Act to improve the quality improvement organization (QIO) program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Continuing the Advancement of Quality Improvement
6 Act of 2007”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Responsibilities of utilization and quality control peer review organiza-
tions.

Sec. 3. Priorities for selection of providers to provide technical assistance.

Sec. 4. Data processing.

Sec. 5. Qualifications for utilization and quality control peer review organizations.

Sec. 6. Funding.

Sec. 7. Improvements to annual reports.

1 SEC. 2. RESPONSIBILITIES OF UTILIZATION AND QUALITY
2 CONTROL PEER REVIEW ORGANIZATIONS.

3 (a) RESPONSIBILITIES.—

4 (1) IN GENERAL.—Section 1154 of the Social
5 Security Act (42 U.S.C. 1320c-3) is amended by
6 adding at the end the following new subsection:

7 “(g) Notwithstanding the preceding provisions of this
8 section, beginning on August 1, 2009, any utilization and
9 quality control peer review organization entering into a
10 contract with the Secretary under this part shall only per-
11 form the function of providing technical assistance for
12 quality improvement and performance measurement to
13 providers, practitioners, and Medicare Advantage organi-
14 zations offering Medicare Advantage plans under part C
15 of title XVIII, including the following:

16 “(1) Instruction on how to collect, aggregate,
17 and interpret data on measures that may be used for
18 internal quality improvement, public reporting, and
19 payment.

20 “(2) Instruction on how to conduct root-cause
21 analyses and deep case studies of sentinel events and
22 other problems.

1 “(3) Assistance to improve the validity and ac-
2 curacy of data submitted by providers and practi-
3 tioners who participate in the program under title
4 XVIII.

5 “(4) Advice and guidance on how to bring
6 about, sustain, and diffuse internal system redesign
7 and process changes, particularly those redesign and
8 process changes that—

9 “(A) are related to the use of information
10 technology for quality improvement; and

11 “(B) promote care coordination and effi-
12 ciency through an episode of care.

13 “(5) Promotion of best practices identified by
14 research, provider, and industry groups.

15 “(6) Improvement of, and provision of technical
16 support for, the direct role of providers in the edu-
17 cation of individuals eligible for benefits under the
18 program under title XVIII as an integral component
19 of improved care, better patient experience, and pa-
20 tient self-management.

21 “(7) Assistance with bringing together and pro-
22 moting cooperation among various stakeholders in
23 providing care.”.

1 (2) CONFORMING AMENDMENTS.—Section 1154
2 of the Social Security Act (42 U.S.C. 1320c-3) is
3 amended—

4 (A) in the heading, by inserting “AND
5 OTHER ORGANIZATIONS” after “ORGANIZA-
6 TIONS”; and

7 (B) in subsection (a)—

8 (i) in paragraph (1), in the matter
9 preceding subparagraph (A)—

10 (I) by inserting “of such title”
11 after “part C”; and

12 (II) by inserting “of such title”
13 after “part D”; and

14 (ii) in paragraph (17)—

15 (I) by inserting “of title XVIII”
16 after “part C”; and

17 (II) by inserting “of such title”
18 after “part D”.

19 (b) TRANSFER OF RESPONSIBILITIES FOR PER-
20 FORMING OTHER FUNCTIONS.—Part B of title XI of the
21 Social Security Act (42 U.S.C. 1320c et seq.) is amended
22 by adding at the end the following new section:

23 “SEC. 1164. TRANSFER OF RESPONSIBILITY FOR PER-
24 FORMING CERTAIN FUNCTIONS.

25 “(a) IN GENERAL.—

“(1) TRANSITION PLAN.—Not later than 6 months after the date of enactment of this section, the Secretary shall develop and transmit to the Committee on Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives a transition plan under which the functions of utilization and quality control peer review organizations under section 1154, as in effect on the day before such date of enactment, are transferred from the responsibility of such organizations to other agencies and organizations (in this part referred to as ‘Medicare provider review organizations’). The transition plan shall include a description of the steps the Secretary will take in implementing the plan and a timeline for such implementation. The transition plan shall be developed in a manner that will ensure that the intended beneficiaries of the functions transferred will neither be harmed as a result of such transfer of responsibility nor experience a disruption or decrease in services under section 1154.

“(2) MEDICARE PROVIDER REVIEW ORGANIZATIONS.—In determining which agency or organization the responsibility for a function is transferred to under the transition plan implemented under

1 paragraph (1), the Secretary shall take into account
2 the following considerations:

3 “(A) Whether the agency or organization
4 is comparable (in terms of experience, capabili-
5 ties, and capacity) to the organization that per-
6 formed such responsibilities as of the day before
7 such date of enactment.

8 “(B) Whether the agency or organization
9 is able to ensure that at least the same level of
10 access to services is available when responsibil-
11 ities are transferred to the agency or organiza-
12 tion.

13 “(C) Whether the transfer of responsibility
14 to the agency or organization will ensure the
15 least amount of disruption and minimize both
16 the risk of harm to the intended beneficiaries of
17 the transferred responsibilities and the disrup-
18 tion or decrease in services under section 1154.

19 “(D) In the case where the responsibility
20 transferred is a review function required under
21 section 1154 as of the day before such date of
22 enactment, whether the agency or organization
23 is able, in the judgment of the Secretary, to
24 perform such review function in a manner con-

1 sistent with the efficient and effective adminis-
2 tration of this part.

3 “(E) Whether the transferred responsibil-
4 ities would be most effectively and efficiently
5 performed at a nationwide, Statewide, or re-
6 gional level.

7 “(F) Whether the transfer of responsibility
8 to the agency or organization will not result in
9 a conflict of interest.

10 “(3) LIMITATION.—A utilization and quality
11 control peer review organization may not be a Medi-
12 care provider review organization in any area in
13 which the utilization and quality control peer review
14 organization provides technical assistance under sec-
15 tion 1154(g).

16 “(4) TRANSFER OF RESPONSIBILITY.—Not
17 later than July 31, 2009, the Secretary shall fully
18 implement the transition plan under this subsection
19 and transfer the functions described in paragraph
20 (1) from utilization and quality control peer review
21 organizations to Medicare provider review organiza-
22 tions.

23 “(b) SHARING OF INFORMATION WITH UTILIZATION
24 AND QUALITY CONTROL PEER REVIEW ORGANIZA-
25 TIONS.—The Secretary shall develop and implement a

1 process by which a Medicare provider review organization
 2 that, as a result of the transfer of responsibility under
 3 subsection (a), conducts case review or has responsibility
 4 for addressing beneficiary appeals or beneficiary com-
 5 plaints shares information with utilization and quality con-
 6 trol peer review organizations for purposes of providing
 7 technical assistance for quality improvement and perform-
 8 ance measurement under section 1154(g).”.

9 (c) MEDICARE PROVIDER REVIEW ORGANIZATIONS
 10 ADDRESSING BENEFICIARY COMPLAINTS.—

11 (1) IN GENERAL.—Section 1164 of the Social
 12 Security Act, as added by subsection (b), is amended
 13 by adding at the end the following new subsection:

14 “(c) MEDICARE QUALITY ACCOUNTABILITY PRO-
 15 GRAM.—On or after the date on which the transition plan
 16 is fully implemented under subsection (a), a Medicare pro-
 17 vider review organization that has responsibility for ad-
 18 dressing beneficiary complaints shall, instead of the re-
 19 quirements described in paragraph (14) of section
 20 1154(a), meet the following requirements:

21 “(1) COMPLAINT REVIEW.—The Medicare pro-
 22 vider review organization shall conduct a review of
 23 all complaints about the quality of services (for
 24 which payment may otherwise be made under title
 25 XVIII) not meeting professionally recognized stand-

ards of health care, if the complaint is filed with the organization by an individual entitled to benefits for such services under such title (or a person acting on the individual's behalf). Before the organization concludes that the quality of services does not meet professionally recognized standards of health care, the organization must provide the provider, practitioner, plan, or person concerned with reasonable notice and opportunity for comment and discussion.

“(2) MEDICARE QUALITY ACCOUNTABILITY PROGRAM.—The Medicare provider review organization shall establish and operate a Medicare quality accountability program consistent with the following:

“(A) The organization shall actively educate Medicare beneficiaries in an efficient and effective manner of their right to bring quality concerns to such Medicare provider review organizations.

“(B) The organization shall report all findings of its investigations to the beneficiary involved or a representative of such beneficiary, regardless of whether such findings involve a provider, practitioner, or plan. Such reports shall describe, at a minimum, whether the organization confirms the allegations in the com-

1 plaint and any actions taken by the provider,
2 practitioner, or plan, respectively, with respect
3 to such findings. Such reports, and any other
4 documentation prepared by the organization
5 during the course of investigating complaints,
6 may not be used in a tort claim or cause of ac-
7 tion arising under State law.

8 “(C) The organization shall determine
9 whether the complaint allegations about clinical
10 quality of care are confirmed. In the case where
11 such allegations are confirmed, in whole or in
12 part, the organization shall (based on criteria
13 issued by the Secretary) refer the provider,
14 practitioner, or plan to 1 or both of the fol-
15 lowing:

16 “(i) A utilization and quality control
17 peer review organization with a contract
18 with the Secretary under this part for
19 technical assistance under section 1154(g).

20 “(ii) The appropriate regulatory body
21 for sanctions.

22 “(D) The organization shall publish and
23 submit to the Secretary annual reports in each
24 State in which the organization operates. Such
25 reports shall include aggregate complaint data

(including the number, nature, and disposition of complaints) and a description of any follow-up activity conducted with respect to such complaints.

“(E) The organization shall promote beneficiary awareness of standardized quality measures that may be used for evaluating care and for choosing providers, practitioners, and plans.”.

(2) CONFORMING AMENDMENT.—Section 1154(a)(14) of the Social Security Act (42 U.S.C. 1320c-3(a)(14)) is amended by striking “The organization” and inserting “Subject to section 1164(c), the organization”.

(d) REFERENCE TO AGENCIES AND ORGANIZATIONS PERFORMING TRANSFERRED FUNCTIONS.—Section 1164 of the Social Security Act, as added by subsection (b) and amended by subsection (c), is amended by adding at the end the following new subsection:

“(d) REFERENCE TO AGENCIES AND ORGANIZATIONS PERFORMING TRANSFERRED FUNCTIONS.—On and after the date on which the transition plan is fully implemented under subsection (a), any reference in this Act to a utilization and quality control peer review organization, a peer review organization, an organization, or organizations with

1 respect to the performance of functions for which responsi-
 2 bility has been transferred under such subsection, shall be
 3 deemed a reference to the Medicare provider review orga-
 4 nization to which such responsibility has been transferred.
 5 In the case where such a reference is deemed a reference
 6 to a Medicare provider review organization, the Medicare
 7 provider review organization shall not be required to
 8 meet—

9 “(1) the definition of a utilization and quality
 10 control peer review organization under section 1152
 11 (as amended by section 5 of the Continuing the Ad-
 12 vancement of Quality Improvement Act of 2007); or
 13 “(2) contract requirements applicable to a utili-
 14 zation and quality control peer review organization
 15 under section 1153 (as amended by such section
 16 5).”.

17 **SEC. 3. PRIORITIES FOR SELECTION OF PROVIDERS TO**
 18 **PROVIDE TECHNICAL ASSISTANCE.**

19 Section 1153 of the Social Security Act (42 U.S.C.
 20 1320c-2) is amended by adding at the end the following
 21 new subsection:

22 “(j) The Secretary shall establish priorities for utili-
 23 zation and quality control peer review organizations to use
 24 in selecting providers and practitioners to provide tech-
 25 nical assistance under section 1154(g) in the event de-

1 mand for such assistance exceeds the available resources
 2 of such organizations. The priorities established shall in-
 3 clude—

4 “(1) whether the provider or practitioner is lo-
 5 cated in a rural or underserved area;

6 “(2) the financial needs of the provider or prac-
 7 titioner;

8 “(3) low performance in measures that may be
 9 used for public reporting and payment;

10 “(4) whether there has been a significant num-
 11 ber of beneficiary complaints with respect to the
 12 practitioner or provider; and

13 “(5) such other measures of performance or
 14 quality as are available to the Secretary.”.

15 **SEC. 4. DATA PROCESSING.**

16 (a) IN GENERAL.—Section 1160 of the Social Secu-
 17 rity Act (42 U.S.C. 1320c-9) is amended—

18 (1) in subsection (a)(3), by striking “subsection
 19 (b)” and inserting “subsections (b) and (f)”; and

20 (2) by adding at the end the following new sub-
 21 section:

22 “(f)(1) A utilization and quality control peer review
 23 organization and a Medicare provider review organization
 24 may share individual-specific data obtained from another
 25 provider or practitioner with a provider or practitioner

1 who is treating the individual, for quality improvement
2 and patient safety purposes.

3 “(2) A utilization and quality control peer review or-
4 ganization and a Medicare provider review organization
5 may share provider-specific data with the Secretary.

6 “(3) The Secretary shall promulgate, not later than
7 1 year after the date of the enactment of this subsection,
8 a regulation that—

9 “(A) specifies the process for sharing data
10 under paragraphs (1) and (2); and

11 “(B) includes safeguards to ensure the con-
12 fidentiality of the data shared.

13 “(4) Nothing in this subsection shall be construed to
14 limit, alter, or affect the requirements imposed by the reg-
15 ulations promulgated under section 264(c) of the Health
16 Insurance Portability and Accountability Act of 1996.”.

17 (b) COMPREHENSIVE REVIEW.—

18 (1) IN GENERAL.—The Secretary of Health and
19 Human Services (in this section referred to as the
20 “Secretary”) shall conduct a comprehensive review
21 of the data-sharing systems, processes, and regula-
22 tions of the Department of Health and Human Serv-
23 ices in order to—

24 (A) identify best practices and procedures,
25 including abstraction of medical chart data; and

1 (B) ensure that such systems, processes,
2 and regulations do not—

3 (i) restrict the sharing of data by uti-
4 lization and quality control peer review or-
5 ganizations with a contract under part B
6 of title XI of the Social Security Act (42
7 U.S.C. 1320c et seq.) for quality improve-
8 ment and patient safety purposes; or

9 (ii) inhibit prompt feedback to such
10 organizations and to providers, practi-
11 tioners, and Medicare Advantage organiza-
12 tions offering Medicare Advantage plans
13 under part C of title XVIII of the Social
14 Security Act (42 U.S.C. 1395 et seq.) on
15 the performance of such providers, practi-
16 tioners, and organizations.

17 (2) REPORT.—Not later than 6 months after
18 the date of enactment of this Act, the Secretary
19 shall submit a detailed report to the Committee on
20 Finance of the Senate and the Committees on En-
21 ergy and Commerce and Ways and Means of the
22 House of Representatives containing—

23 (A) the results of the review conducted
24 under paragraph (1);

1 (B) a timeline for the implementation of
 2 any administrative action the Secretary deter-
 3 mines to be appropriate; and

4 (C) recommendations for such legislation
 5 as the Secretary determines to be appropriate.

6 (c) SUPPORTING NATIONAL REPORTING AND INTE-
 7 GRATING CARE DATA.—The Secretary shall ensure that
 8 the program under part B of title XI of the Social Security
 9 Act, as amended by this Act, supports the processes of
 10 national reporting of performance measures, data aggre-
 11 gation, data analysis, and feedback.

12 **SEC. 5. QUALIFICATIONS FOR UTILIZATION AND QUALITY**
 13 **CONTROL PEER REVIEW ORGANIZATIONS.**

14 (a) REMOVAL OF PHYSICIAN-ACCESS AND PHYSI-
 15 CIAN-SPONSORED REQUIREMENTS.—

16 (1) IN GENERAL.—Section 1152 of the Social
 17 Security Act (42 U.S.C. 1320e-1) is amended by
 18 striking paragraph (1) and inserting the following:

19 “(1) has expertise in quality improvement and
 20 performance measurement; and”.

21 (2) CONFORMING AMENDMENT.—Section
 22 1153(b)(1) of the Social Security Act (42 U.S.C.
 23 1320e-2(b)(1)) is amended by striking the second
 24 sentence.

1 (b) QUALIFICATIONS.—Part B of title XI of the So-
2 cial Security Act (42 U.S.C. 1320e), as amended by sec-
3 tion 3, is amended—

4 (1) in section 1152—

5 (A) by striking paragraph (2);

6 (B) by redesignating paragraph (3) as
7 paragraph (2); and

8 (C) in paragraph (2), as redesignated by
9 subparagraph (B), by inserting “and, beginning
10 on the date that is 1 year after the date of en-
11 actment of the Continuing the Advancement of
12 Quality Improvement Act of 2007, that meets
13 the requirements described in section
14 1153(k)(1)” before the period at the end; and

15 (2) in section 1153, by adding at the end the
16 following new subsection:

17 “(k)(1) The requirements described in this paragraph
18 are as follows:

19 “(A) The governing board of the utilization and
20 quality control peer review organization is appro-
21 priately diverse, has relationships with providers and
22 stakeholders within the State, and provides for
23 transparency.

24 “(B)(i) Subject to clause (ii), the governing
25 board of the utilization and quality control peer re-

1 view organization is made up of individuals from di-
 2 verse areas, disciplines, and expertise, including—

3 “(I) quality improvement and performance
 4 measurement professionals from within and
 5 outside of the health care field;

6 “(II) providers of services under the pro-
 7 gram under title XVIII, including physicians
 8 and other health care practitioners;

9 “(III) public or population health profes-
 10 sionals;

11 “(IV) information technology implementa-
 12 tion, management, and oversight professionals;

13 “(V) certified public accountants, auditors,
 14 and attorneys; and

15 “(VI) Medicare beneficiary and consumer
 16 groups.

17 “(ii) A majority of the members of the gov-
 18 erning board of the utilization and quality control
 19 peer review organization do not come from any 1 of
 20 the 5 areas, disciplines, and expertise described in
 21 subclauses (I) through (V) of clause (i).

22 “(C) The governing board of the utilization and
 23 quality control peer review organization has—

24 “(i) developed and implemented a compli-
 25 ance program that includes—

1 “(I) written policies, procedures, and
2 standards of conduct that articulate the or-
3 ganization’s commitment to comply with
4 all applicable Federal and State standards;

5 “(II) effective compliance training and
6 education for employees, managers, and
7 members of the governing board;

8 “(III) the designation of—

9 “(aa) a compliance officer; and

10 “(bb) a compliance committee
11 comprised of a majority of members
12 who are independent of the governing
13 board and to which the governing
14 board refers issues of conflicts of in-
15 terest, ethics, program integrity, and
16 the compensation (including benefits)
17 and travel costs of senior executive
18 staff and members of the governing
19 board;

20 “(IV) effective lines of communication
21 between the compliance officer designated
22 under subclause (III)(aa) and the organi-
23 zation’s employees;

1 “(V) enforcement of policies, proce-
2 dures, and standards of conduct through
3 publicized disciplinary guidelines;

4 “(VI) procedures for periodic internal
5 monitoring and auditing;

6 “(VII) procedures for ensuring
7 prompt response to detected offenses and
8 the development of corrective action initia-
9 tives; and

10 “(VIII) such other requirements as
11 the Secretary determines to be necessary
12 for ensuring appropriate governance; and

13 “(ii) set overall policy and direction for the
14 organization and has retained oversight respon-
15 sibility over the organization.

16 “(D) The governing board of the utilization and
17 quality control peer review organization and the uti-
18 lization and quality control peer review organization
19 comply with the following requirements for trans-
20 parency and accountability:

21 “(i) The governing board of the utilization
22 and quality control peer review organization dis-
23 closes to the public information regarding the
24 board, including—

25 “(I) the size of the board;

1 “(II) the length of appointment of
2 members to the board;

3 “(III) any cap on the length of service
4 as a member of the board;

5 “(IV) when appointments to the board
6 are made;

7 “(V) what portion of the board is
8 typically appointed each year;

9 “(VI) names, affiliation, and com-
10 pensation of board members; and

11 “(VII) such other disclosure require-
12 ments as the Secretary determines to be
13 appropriate.

14 “(ii) The governing board of the utilization
15 and quality control peer review organization
16 meets contract requirements developed by the
17 Secretary—

18 “(I) with respect to the length of serv-
19 ice, independence, and duties of board
20 members; and

21 “(II) with respect to compliance offi-
22 cer and compliance committee duties.

23 “(iii) The governing board of the utiliza-
24 tion and quality control peer review organiza-
25 tion complies with guidelines developed by the

1 Secretary as to what constitutes reasonable
2 compensation for members of the governing
3 board of a utilization and quality control peer
4 review organization (including the chief execu-
5 tive officer, chief operating officer, and chief fi-
6 nancial officer).

7 “(iv) The utilization and quality control
8 peer review organization has in place formal
9 and documented procedures for addressing po-
10 tential board member and executive conflicts of
11 interests, ethical issues, and program integrity.

12 “(v) The utilization and quality control
13 peer review organization implements formal and
14 documented procedures to evaluate individual
15 board member actions and activities and overall
16 board performance not less frequently than on
17 an annual basis.

18 “(2) Each contract with a utilization and quality con-
19 trol peer review organization under this part shall require
20 that the organization comply with a system established by
21 the Secretary to identify, cure (by resolving or waiving),
22 and report conflicts of interest with respect to the gov-
23 erning board of such an organization, such organization,
24 and entities that subcontract with such organization. Such
25 system shall include the following:

1 “(A) Guidelines as to what constitutes a con-
2 flict of interest, including a member of the governing
3 board receiving compensation from the organization,
4 directly or indirectly, for the provision of services
5 outside the scope of their duties and responsibilities
6 as a member of the governing board.

7 “(B) The requirement to disclose any potential
8 conflicts of interest.

9 “(C) A process by which conflicts of interest
10 shall be disclosed.

11 “(D) Methods by which conflicts of interest
12 shall be resolved or waived.

13 “(3) Each contract with a utilization and quality con-
14 trol peer review organization under this part shall require
15 that the organization meet requirements pertaining to the
16 development and conduct or implementation of—

17 “(A) annual performance evaluations for mem-
18 bers of the governing board of such an organization
19 (including the chief executive officer, chief operating
20 officer, and chief financial officer);

21 “(B) an annual self-assessment to be conducted
22 by the governing board of such an organization; and

23 “(C) an overall performance improvement plan
24 for the governing board of such an organization.”.

1 (c) DURATION OF CONTRACTS, SELECTION CRI-
2 TERIA, AND ENSURING VALUE.—Section 1153 of the So-
3 cial Security Act (42 U.S.C. 1320c-2) is amended—

4 (1) by striking paragraph (3) of subsection (c)
5 and inserting the following new paragraph:

6 “(3) contract terms are consistent with sub-
7 section (i);”; and

8 (2) by striking subsection (i) and inserting the
9 following new subsection:

10 “(i)(1) Subject to the succeeding provisions of this
11 subsection, each contract with a utilization and quality
12 control peer review organization under this part shall be
13 for an initial term of 5 years, beginning and ending on
14 a common date for all contractors as required under this
15 subsection and shall be renewable for 5-year terms there-
16 after.

17 “(2) Each contract with a utilization and quality con-
18 trol peer review organization under this part—

19 “(A) shall be bid on through a competitive proc-
20 ess; and

21 “(B) shall not be renewed without going
22 through a competitive process.

23 “(3) The Secretary shall use criteria for selecting uti-
24 lization and quality control peer review organizations to

1 enter into a contract with under this part that takes into
2 consideration—

3 “(A) any previous experience and performance
4 of the organization under a contract under this part;

5 “(B) whether the organization has dem-
6 onstrated a capacity to support quality improvement
7 and performance measurement; and

8 “(C) the financial integrity of the organization.

9 “(4) The Secretary shall develop performance meas-
10 ures, including interim and final goals, for the functions
11 to be performed by the utilization and quality control peer
12 review organization under the contract. The performance
13 measures shall be based on nationwide priorities developed
14 or adopted by the Secretary. Such measures shall be made
15 available to utilization and quality control peer review or-
16 ganizations during the bidding process. The Secretary
17 shall provide financial incentives and penalties that reward
18 high performance and penalize poor performance under
19 such contracts, taking into consideration the measures de-
20 veloped under this paragraph.

21 “(5) The Secretary shall develop procedures for the
22 conduct of interim and final evaluations to assess the per-
23 formance of the utilization and quality control peer review
24 organization under the contract against the performance
25 measures developed under paragraph (4). Such procedures

1 shall provide for 3 types of evaluations to be conducted
2 at each of the following levels:

3 “(A) The program under this part as a whole.

4 “(B) Individual utilization and quality control
5 peer review organizations with respect to the con-
6 tract entered into with such organization under this
7 part.

8 “(C) Selected quality improvement interventions
9 implemented by such organizations.

10 “(6) The Secretary shall enter into a contract with
11 an entity to conduct an independent external evaluation
12 of the overall contributions of the program under this part
13 toward quality improvement and performance measure-
14 ment. Such an evaluation shall be conducted not less fre-
15 quently than once during each contract cycle.

16 “(7) The Secretary shall extend each contract with
17 a utilization and quality control peer review organization
18 under this part the contract period for which began on
19 or after August 1, 2005, and on or before February 1,
20 2006, so that the subsequent contract period begins on
21 August 1, 2009.”.

22 (d) SCOPE OF WORK.—Section 1153 of the Social Se-
23 curity Act (42 U.S.C. 1320c-2), as amended by sub-
24 sections (b) and (c), is amended—

1 (1) in paragraph (3) of subsection (c), by strik-
2 ing “subsection (i)” and inserting “subsections (i)
3 and (l)”;

4 (2) by adding at the end the following new sub-
5 section:

6 “(l)(1) The scope of work required under a contract
7 with a utilization and quality control peer review organiza-
8 tion under this part shall reflect the priorities of—

9 “(A) quality improvement in individual provider
10 settings and across multiple-provider settings; and

11 “(B) performance measurement which may be
12 used for purposes of public reporting and payment
13 under title XVIII.

14 “(2) In advance of each contract cycle, the Secretary
15 shall conduct an assessment of the need for technical as-
16 sistance for quality improvement and performance meas-
17 urement by obtaining feedback from providers within each
18 provider setting under the program under title XVIII. The
19 feedback obtained shall be on applicable areas, including
20 the following:

21 “(A) Internal capacities of providers for quality
22 improvement and performance measurement.

23 “(B) Past and current quality improvement and
24 performance measurement activities.

1 “(C) Technical assistance that providers are
2 currently receiving on quality improvement and per-
3 formance measurement.

4 “(D) Current gaps in technical assistance for
5 quality improvement and performance measure-
6 ment.”.

7 (e) EFFECTIVE DATE.—Except as provided in sub-
8 section (b)(1)(C), the amendments made by this section
9 shall apply to contracts entered into on or after August
10 1, 2009.

11 **SEC. 6. FUNDING.**

12 (a) IN GENERAL.—

13 (1) FUNDING.—Section 1159 of the Social Se-
14 curity Act (42 U.S.C. 1320c-8) is amended—

15 (A) in the matter preceding paragraph (1),
16 by inserting “(a)” before “Expenses incurred”;
17 and

18 (B) by adding at the end the following new
19 subsections:

20 “(b) Subject to subsection (c), funding for contracts
21 under this part shall be used solely for providing technical
22 assistance for quality improvement and performance
23 measurement. The decision whether to fund such con-
24 tracts under this part shall be based on the results of eval-
25 uations conducted by the Secretary to determine—

1 “(1) the overall impact of the program under
2 this part on quality improvement and performance
3 measurement;

4 “(2) the specific quality improvement methods
5 and techniques used by an organization;

6 “(3) which organizations that the Secretary
7 contracts with under this part are most successful;
8 and

9 “(4) whether there is continued demand for
10 technical assistance for quality improvement and
11 performance measurement, as demonstrated by—

12 “(A) demand by providers for such assist-
13 ance;

14 “(B) the activities of utilization and qual-
15 ity control peer review organizations; and

16 “(C) referrals made by the Secretary,
17 Medicare provider review organizations, and
18 other agencies and organizations (including con-
19 tractors) for such assistance.

20 “(e) Expenses incurred by Medicare provider review
21 organizations in carrying out functions the responsibility
22 for which was transferred under section 1164(a) shall be
23 payable from funds authorized under subsection (a).”

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to contracts entered
3 into on or after August 1, 2009.

4 (b) LIMITATIONS ON USE AND REDUCTION OF
5 FUNDING.—

6 (1) IN GENERAL.—Section 1159 of the Social
7 Security Act (42 U.S.C. 1320e–8), as amended by
8 subsection (a), is amended—

9 (A) in subsection (b), by striking “sub-
10 section (c)” and inserting “subsections (c) and
11 (d)”; and

12 (B) by adding at the end the following new
13 subsections:

14 “(d) Funding for contracts under this part may not
15 be used for either of the following purposes:

16 “(1) To pay dues for membership in an organi-
17 zation that engages in lobbying activities (as defined
18 in section 3 of the Lobbying Disclosure Act of 1995
19 (2 U.S.C. 1602)).

20 “(2) To pay fees to any individual for lobbying
21 activities (as so defined).

22 “(e) The Secretary may not reduce the amount of
23 funding under a contract under this part unless the scope
24 of work has been reduced. In the case where the scope
25 of work has been reduced, any reduction in contract fund-

ing shall be commensurate with the reduction in the scope of work.”.

(2) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on the date that is 1 year after the date of enactment of this Act.

SEC. 7. IMPROVEMENTS TO ANNUAL REPORTS.

Section 1161 of the Social Security Act (42 U.S.C. 1320c-1) is amended—

(1) in the matter preceding paragraph (1), by striking “the Congress” and inserting “the Committee on Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives”;

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) in the case of reports submitted on or after April 1, 2010—

“(A) the number and type of practitioners and providers that are provided technical assistance for quality improvement and performance measurement under section 1154(g);

“(B) the performance of organizations under a contract under this part against per-



1 formance measures, including interim and final
2 goals, developed under section 1153(i)(4);

3 “(C) the number and nature of complaints
4 investigated by Medicare provider review orga-
5 nizations, and the disposition of such com-
6 plaints by such organizations;

7 “(D) a compilation of the data contained
8 in quality reports submitted to the Secretary
9 under section 1164(c)(2)(D);

10 “(E) the amount and apportionment of
11 funding from the Federal Hospital Insurance
12 Trust Fund and the Federal Supplementary
13 Medical Insurance Trust Fund to administer
14 this part under section 1159, including how
15 such funds were allocated based on the recipi-
16 ent, purpose, and amount; and

17 “(F) any weaknesses identified in audits
18 conducted with respect to the financial state-
19 ments of utilization and quality control peer re-
20 view organizations and Medicare provider re-
21 view organizations.”.

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